



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,914	08/22/2003	Firooz Atrizadeh		1941
7590		05/16/2007		
Firooz Atrizadeh				
6150 Lockridge Dr.				
Granite Bay, CA 95746				
			EXAMINER	
			GANESAN, SUNDHARA M	
			ART UNIT	PAPER NUMBER
			3764	
			MAIL DATE	DELIVERY MODE
			05/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

SP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/646,914	ATRIZADEH, FIROOZ	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sundhara M. Ganesan	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08/22/2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)                       |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application             |
| Paper No(s)/Mail Date _____  | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: Attachment 1: Examiner's annotation of Fig. 1 of US Pat. 554,636.

## **DETAILED ACTION**

### ***Drawings***

1. Color photographs and color drawings are not accepted unless a petition filed under 37 CFR 1.84(a)(2) is granted. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings and black and white photographs have been satisfied. See 37 CFR 1.84(b)(2). The drawings filed 07/22/2004 contain what appear to be color figures, which have not scanned well. To rectify this issue, a petition may be filed, OR a set of grayscale or black-and-white outline drawings may be provided.

### ***Claim Objections***

2. Claims 7 and 8 are objected to because of the following informalities: The claim dependency is unclear. In the preliminary amendment filed 07/22/2004, claims 1-5 were cancelled. However, claims 7 and 8 still indicate, "the apparatus of claim 1". The examiner assumes this to be a minor oversight. For the purpose of examination on the merits, claims 7 and 8 have been treated as if they depend from claim 6. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9 and 10 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the exercise steps to recruit upper body and neck muscles simultaneously and the exercise steps to restore range of motion to the cervical spine in various directions.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Lockett (US Pat. 4,832,333). Lockett describes the same invention as claimed, including: a headband (1) and a strengthening device (3) connected to the headband, as in claim 6.

Regarding claim 7, the headband comprises a headband strap (Fig. 2) having a first end and a second end (left and right sides of the headband strap shown in Fig. 2) attachable to each other through male and female adhering material (9, a hook-and-

loop fastener shown in Fig. 3), and a snap hook (19) attached to the headband to hold stretching tubes.

7. Claims 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hulsmann (US Pat. 554,636). Hulsmann describes the same invention as claimed, including: a headband (3) and a strengthening device connected to the headband (5), as in claim 6.

Regarding claim 8, Hulsmann shows an adjustable elastic tube (5) having a first end and a second end, each end fastened slidably through an adjusting buckle (see Attachment 1, examiner's annotation of Fig. 1), passes freely through a handle (passes through handle at (6), shown in Fig. 2) and is tied to the adjusting buckle forming a loop at each side (Fig. 2). Hulsmann further shows: a handle (8) on each side to hold the elastic tube, an adjusting buckle (4) rigidly attached to each side of the elastic tube, the adjusting buckle slides along the length of the elastic tube to adjust its length and resistance (Pg. 1, Col. 2, lines 57-62).

Regarding claim 9, Hulsmann shows methods of exercise to recruit upper body and neck muscles simultaneously (Pg. 1, Col. 2, lines 79-84).

8. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Woodruff. Woodruff (US Pat. 6,036,625). Woodruff describes the same invention as claimed, including methods of exercise to restore range of motion to the cervical spine in various directions (Col. 3, lines 36-40).

**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO-892 for cited art of interest.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sundhara M. Ganesan whose telephone number is 571-272-3340. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cary O'Connor can be reached on (571) 272-4715. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



S.G.  
05/10/2007

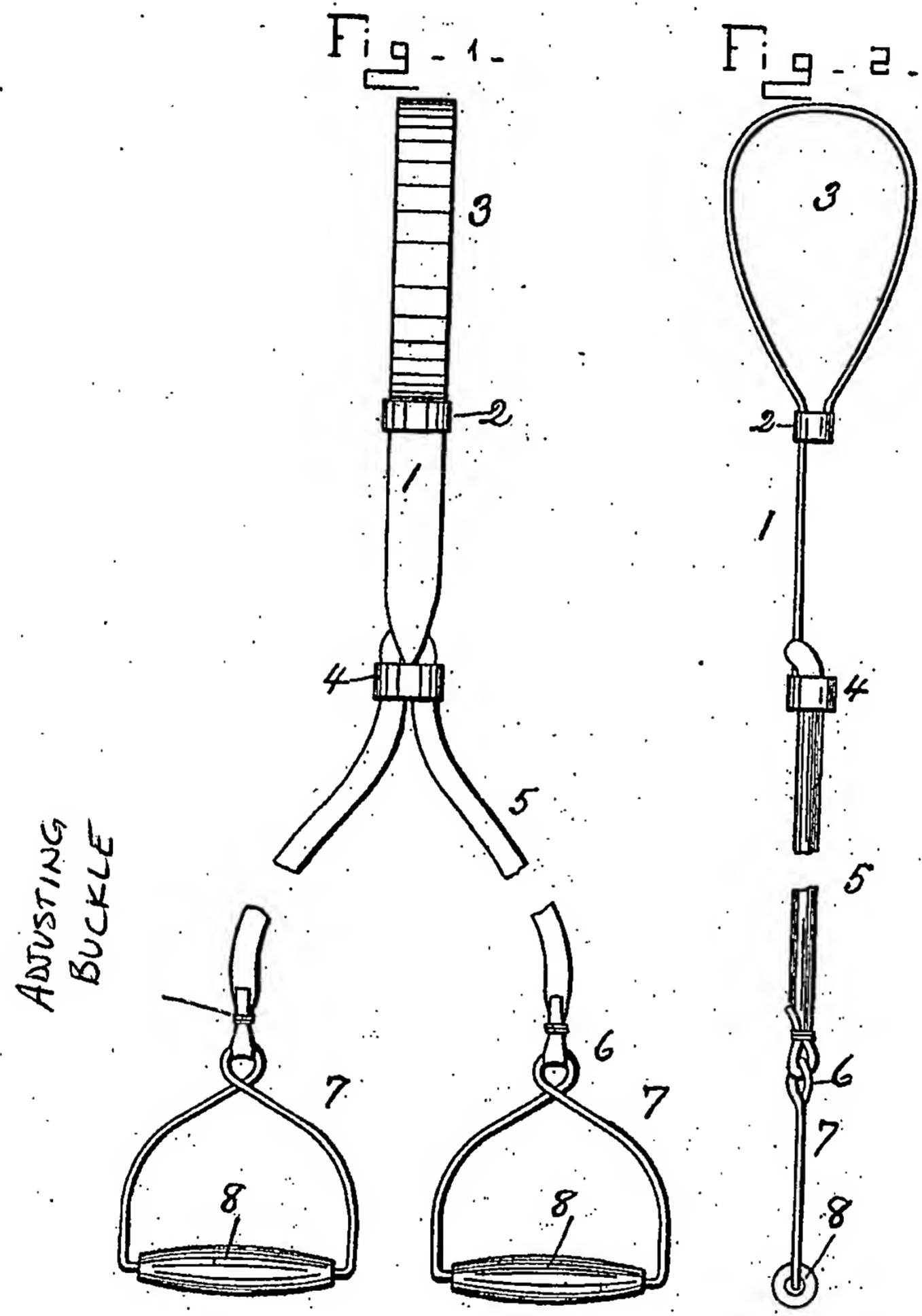
**LORI AMERSON  
PRIMARY EXAMINER**

(No Model.)

F. HULSMANN.  
EXERCISING MACHINE.

No. 554,636.

Patented Feb. 11, 1896.



WITNESSES:

*H. J. Lewis*  
*W. H. Sendel*

INVENTOR

*Frederick Hulsmann*

BY

*O. A. Lewis*

ATTORNEY.